

**FILED**

**NOV 20 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMUNDO MONTENEGRO  
SAUCEDO, a/k/a Raymond Montenegro  
Saucedo and Raymundo Saucedo-  
Montenegro,

Defendant - Appellant.

No. 05-50650

D.C. No. CR-04-01125-DT-01

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Dickran M. Tevrizian, District Judge, Presiding

Submitted October 22, 2007<sup>\*\*</sup>

Before: B. FLETCHER, WARDLAW, and IKUTA, Circuit Judges.

Raymundo Montenegro Saucedo appeals from his jury-trial conviction and  
156-month sentence imposed for conspiracy to possess with intent to distribute

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<sup>\*</sup> This disposition is not appropriate for publication and is not  
precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

heroin in violation of 21 U.S.C. § 846, possession with intent to distribute heroin in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B), and possession with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Saucedo's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Saucedo filed a pro se supplemental brief, in which he contended that he was entrapped by the government informant. However, Saucedo never raised this defense at trial and it is not properly before this panel for the first time on appeal. *See United States v. Davis*, 36 F.3d 1424, 1430 (9th Cir. 1994) (internal quotations omitted) ("It is inappropriate for an appellate court to determine whether a defendant was entrapped when such a determination would necessarily entail choosing between conflicting witnesses and judging credibility.").

Our independent review of the briefs and the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no grounds for relief on direct appeal.

Counsel's motion to withdraw is **GRANTED**, and the government's motion to dismiss is denied.

**AFFIRMED.**